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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 11/27/2001

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,315

Applicant(s)

DECOSTER ET AL.

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-21 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 17-21 and 23-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Receipt of extension of time (1 month) and amendment B, dated 9-10-01 is acknowledged.

Response to Arguments

Applicant's arguments with respect to claims 17-21 and 23-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

Claims 17, 18, 23-30, 32 and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,529,586 to De Marco et al ('586).

'586 discloses hair conditioning composition comprising an amino functional silicone polymer in an aqueous emulsion such as amidomethicone, a cationic surfactant and a cationic polymer, for increasing the combability of the hair and improving the durability of the conditioning effect (see abstract). The amino silicone polymer of '586 reads on the instant silicone. See the formula and the description of the variables x and y, in col. 2. '586 teach the amounts of cationic polymers, cationic surfactant and amino silicone polymer, which fall within the range of amounts claimed in the instant invention (col. 2, lines 28-43 col. 6, lines 25-45). '586 also disclose cationic polymers such as quaternium-40, quaternized polyvinyl pyridine, quaternized polyethelenimine & quaternium-19 (col. 3-5). The later is a polymer of hydroxyethyl cellulose reacted with epichlorohydrin and then quaternized with trimethylamine, sold under the name Polymer JR-400, which is also described in the instant specification page 15, lines 16-24. The cationic surfactants taught by '586 read on the instant washing base. '586 fail to explicitly

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state pH of the composition. However, absent showing evidence on the contrary, the pH of the hair conditioning composition of '586 is within the claimed range of pH 3 to 10.

Claim Rejections - 35 USC § 103

Claims 17-21, 23-30 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over 4,529,586 ('586).

'586 fails to teach the instant pH of 3 to 10, modified guar gums and the claimed amounts of surfactants. However, '586 teaches that the cationic surfactants in an amount effective for increasing the combability of the hair and durability of the conditioning effect. Accordingly, it would have been within the scope for a skilled artisan to optimize the amount of cationic surfactant in the composition of '586 to achieve the art recognized effect. With respect to pH, as explained above, absent showing evidence on the contrary, the composition of '586 has a pH of 3 to 10. Further, adjusting the pH of a hair conditioning composition close to that tolerated by hair and scalp would have been within the scope of a skilled artisan because, a skilled artisan would expect the composition to be effective in conditioning the hair as well as not exert an undesirable effect (harmful effect) on the scalp and hair, with which it is contact. '586 teaches quaternized cellulose compounds (quaternium-19) and not exactly modified guar gums of the instant claims. However, it would have been obvious for a skilled artisan from the teachings of '586 that any quaternized cellulose derivatives would have had the same effect as the cationic quaternium 19 because of their similar cationic properties and because '586 teaches that cationic polymer primes the hydrophilic surface of the hair to make it less hydrophilic and then assists in the deposition of the hydrophobic silicone on the hair.

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Claims 17-21 and 23-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over 4,529,586 ('586) in view of WO 94/06403 to Reich et al (WO).

'586 fail to teach the instant cyclopolymers.

WO teaches hair-conditioning shampoos containing cationic polymer, anionic surfactant, hair conditioning amino functional silicone polymer and a dispersing agent. WO discloses the same cationic polymer of the instant claim 31 i.e., a copolymer of acrylamide and dialkyldiallylammonium salt and in the same amounts (abstract, pages 3-4). Therefore, it would have been obvious for a skilled artisan at the time of the instant invention to use the copolymer of acrylamide and dialkyldiallylammonium salt (of WO), as a cationic polymer, in the hair conditioning composition of '586 because WO suggests that the copolymer imparts better hair conditioning benefits to hair compositions containing conditioning agents and also exhibits compatibility with surfactants present in the composition. Further, WO also teaches dispersing agents such as quaternized derivatives of polysaccharides, including hydroxyethyl cellulose, guar gums cationic guar gum or Polymer JR (page 10). WO does not particularly teach guar gum modified by 2,3,-epoxytrimethylammonium salt. However, '586 teach quaternizing cellulose with trimethylamines. Accordingly, it would have been obvious for a skilled artisan at the time of the instant invention to add the quaternized guar gum of WO, in particular a modified with trimethylamine, in the hair product of '586 because WO teaches that the quaternized guar gum acts as a dispersing agent and improves the stability of the emulsion or suspension.

NO claim is allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7921 for regular communications and 703-308-7921 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



Lakshmi S. Channavajjala

November 21, 2001


THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
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